



Department of Justice

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ELPIDA MEMORY EXECUTIVE AGREES TO PLEAD GUILTY FOR PARTICIPATING IN DRAM PRICE-FIXING CONSPIRACY

Executive To Serve Prison Time, Pay \$250,000 Criminal Fine

WASHINGTON — A former executive of Elpida Memory, a large Japanese manufacturer of a common computer component called dynamic random access memory (DRAM), has agreed to plead guilty, pay a \$250,000 criminal fine, and serve prison time in the United States for participating in a global conspiracy to fix DRAM prices, the Department of Justice announced.

Including today's charge, the Department has charged four companies and 17 individuals, and has secured fines totaling more than \$731 million, as a result of its ongoing antitrust investigation into price fixing in the DRAM industry. The \$731 million in criminal fines is the second-highest total obtained by the Department of Justice in a criminal antitrust investigation involving a specific industry.

The Department charged that D. James Sogas of Burlingame, Calif., participated in the price-fixing conspiracy in his capacity as vice president of sales for Elpida Memory. Sogas was charged with violating the Sherman Act in a one-count criminal charge alleging participation in an agreement to fix prices of DRAM and to coordinate bids on auctions held by a DRAM purchaser.

Under the plea agreement, which must be approved by the court, Sogas has agreed to serve seven months in prison and to pay a \$250,000 criminal fine. In addition, Sogas has agreed to assist the Department of Justice in its ongoing investigation of the DRAM industry.

"The Antitrust Division remains steadfast in its commitment to deter illegal cartel activity and to hold accountable those who participate in price fixing conspiracies," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division.

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication, and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants (PDAs), modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders and TVs, digital set-top boxes, game consoles and digital music players. There were approximately \$25 billion in DRAM sales worldwide in 2005.

According to the one-count felony charge filed today in federal court in San Francisco, Sogas conspired with unnamed employees from other memory makers to fix the prices of DRAM sold to certain original equipment manufacturers from on or about April 1, 2001, to on or about June 15, 2002, and to coordinate bids on Sun Microsystems Inc. auctions held on Dec.5, 2001, and March 26, 2002. The price-fixing scheme directly affected sales to U.S. computer makers Dell Inc., Hewlett-Packard Company, Compaq Computer Corporation, International Business Machines Corporation, Apple Computer Inc., Gateway Inc., and Sun Microsystems Inc., the Department said.

Sogas is charged with carrying out the price-fixing conspiracy by:

- Participating in meetings, conversations and communications with competitors to discuss the prices of DRAM to be sold to certain customers, which led to agreements with his competitors to charge prices of DRAM at certain levels to be sold to certain customers;
- Issuing price quotations in accordance with the agreements reached; and
- Exchanging information on sales of DRAM to certain customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices.
- Agreeing with competitors to coordinate bids submitted to Sun Microsystems Inc.

“Price fixing will not be tolerated, and we will continue our efforts to bring to justice both domestic and foreign-based executives involved in the conspiracy to fix DRAM prices,” said Scott D. Hammond, the Antitrust Division’s Deputy Assistant Attorney General for Criminal Enforcement.

Sogas is the first Elpida Memory executive to agree to a prison sentence in the DRAM investigation. Three foreign-based Samsung Electronics Ltd. (Samsung) executives, Sun Woo Lee, Yeongho Kang and Young Woo Lee, pleaded guilty to the DRAM price-fixing conspiracy in March and August 2006. The Samsung employees agreed to serve prison terms ranging from seven to eight months and to each pay a \$250,000 criminal fine. On Nov. 8, 2006, Thomas Quinn, a fourth Samsung executive, pleaded guilty and was sentenced to serve eight months in prison and to pay a \$250,000 criminal fine for his role in the DRAM price-fixing conspiracy.

In addition, four Hynix Semiconductor Inc. (Hynix) executives, Dae Soo Kim, Chae Kyun Chung, Kun Chul Suh, and Choon Yub Choi, were charged with participating in the DRAM price-fixing conspiracy and agreed to plead guilty and serve jail terms ranging from five to eight months and to each pay a \$250,000 criminal fine. In December 2004, four Infineon executives, T. Rudd Corwin, Peter Schaefer, Gunter Hefner and Heinrich Florian, pleaded guilty to the DRAM price-fixing conspiracy. The Infineon employees served jail terms ranging from four to six months and each paid a \$250,000 criminal fine.

Also, in December 2003, the Department charged Alfred Censullo, a regional sales manager for Micron Technology Inc., with obstruction of justice. Censullo pleaded guilty and

admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron. Censullo was sentenced to serve six months of home detention.

On Oct.18, 2006, an indictment was returned against Il Ung Kim and Young Bae Rha, two executives from Samsung and Gary Swanson, an executive from Hynix America, the U.S.-based subsidiary of Hynix, charging them with participating in a global conspiracy to fix the price of DRAM from on or about April 1, 2001, until on or about June 15, 2002.

In total, four companies have been charged with price fixing in the DRAM investigation. Samsung, the world's largest DRAM manufacturer, pleaded guilty to the price-fixing conspiracy and was sentenced to pay a \$300 million criminal fine in November 2005. Hynix, the world's second-largest DRAM manufacturer, pleaded guilty and was sentenced to pay a \$185 million criminal fine in May 2005. In January 2006, Elpida Memory agreed to plead guilty and pay an \$84 million fine. In October 2004, German manufacturer Infineon pleaded guilty and was sentenced to pay a \$160 million criminal fine.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Office and the Federal Bureau of Investigation (FBI) in San Francisco.

Anyone with information concerning price fixing in the DRAM industry should contact the San Francisco Office of the Antitrust Division at 415-436-6660 or the San Francisco Division of the FBI at (415) 553-7400. Case filings can be viewed on the Antitrust Division's web site, <http://www.usdoj.gov/atr/>.

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